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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Mei Ping (Barbara) Matsumura and  
Carl Milner, as Trustee of the Trust  
U/W/O Arthur Cutler,

Plaintiffs,

-against-

Benihana National Corporation, and  
Haru Holding Corp.,

Defendants.

Case No. 06 Civ. 7609 (NRB)

Electronically Filed

**STIPULATION OF SETTLEMENT AND DISMISSAL WITH PREJUDICE**

WHEREAS, the parties to this above-captioned matter (the "Action"), Mei Ping (Barbara) Matsumura ("Matsumura"), Carl Milner, as Trustee of the Trust U/W/O Arthur Cutler (the "Trust") (each, a "Plaintiff"), and Benihana National Corporation and Haru Holding Corporation (together, "Benihana") (Benihana and Plaintiffs together, the "Parties"), by and through their undersigned counsel, hereby stipulate to the settlement of this Action, pursuant to the terms set forth below and as further set forth in the Settlement Agreement entered into by and between the Parties, dated July \_\_, 2014 (the "Agreement"), and further wish to dismiss with prejudice all claims in the Action such that no claims remain:

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, Plaintiffs shall pay to Benihana the total sum as set forth in Paragraph 1 of the Agreement in settlement of any and all claims between Matsumura and the Trust, on one hand, and Benihana, on the other hand, including without limitation any claim that Benihana might have for attorneys' fees in this Action. Matsumura shall pay to Benihana the amounts specified in Paragraph 1(a) on dates set forth therein

(July 31, 2014 and January 31, 2015). The Trust likewise shall pay to Benihana the amounts specified in Paragraph 1(b) on dates set forth therein (July 31, 2014 and January 31, 2015). Should Matsumura fail to make payment as provided in Paragraph 1(a) of the Agreement, or should the Trust fail to make payment as provided in Paragraph 1(b) of the Agreement, and should such Plaintiff fail to cure within five (5) business days of notice, as provided in the Agreement, Benihana will be entitled to a judgment in the full amount of the then unpaid settlement balance against that Plaintiff who failed to make a required payment; and

**IT IS HEREBY FURTHER STIPULATED AND AGREED**, that in the event that a Plaintiff fails to make any payment required under the Agreement (a "Breaching Plaintiff"), the general release of claims provided to that Breaching Plaintiff by Benihana in the Agreement shall immediately be deemed null and void and Benihana shall be entitled to seek the entry of judgment in this Court or, in the event that this Court no longer has jurisdiction over this matter, other appropriate relief against that Breaching Plaintiff, including seeking recovery of attorney's fees pursuant to this Court's determination that Benihana was the "prevailing party" in this Action (provided that the Breaching Plaintiff shall not be entitled to state any claims for contribution against the other Plaintiff); and

**IT IS HEREBY FURTHER STIPULATED AND AGREED**, by and among the Parties, through their undersigned counsel, that pursuant to FED. R. CIV. P. 41(a)(1)(A)(ii), all claims in the Action shall be and are hereby dismissed with prejudice, with each Party to bear its own costs. This Court shall retain jurisdiction of this matter to enforce the terms of this Agreement; and

**IT IS HEREBY FURTHER STIPULATED AND AGREED**, the parties shall file with the Second Circuit Court of Appeals a Stipulation of Voluntary Dismissal pursuant to FED. R. APP.

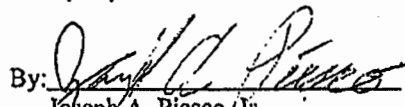
P. 42, with each Party to bear its own costs, dismissing with prejudice all appeals raised with respect to the Action.

Dated: July 29, 2014  
New York, New York

Respectfully submitted,

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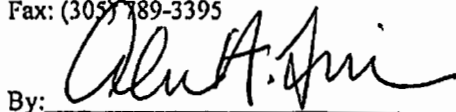
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So Ordered this 4<sup>th</sup> day of July, 2014  
New York, New York

  
The Honorable Naomi R. Buchwald, U.S.D.J.